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	BROWNFIELD PROPERTIES - AMENDMENTS		
	2004 GENERAL SESSION		
	STATE OF UTAH		
	Sponsor: Bill Wright		
	LONG TITLE		
	General Description:		
	This bill limits under specified circumstances the cleanup liability to the state of		
innocent landowners, bona fide purchasers of contaminated property, and landowners			
whose property is contiguous to contaminated property, but allows the state to hold a			
lien on the property for the property's increase in value due to the cleanup.			
Highlighted Provisions:			
	This bill:		
	 enumerates the conditions, including references to federal law, that the property 		
	owner must meet to qualify for the innocent landowner, bona fide purchaser, or		
contiguous landowner liability exemption regarding property at times referred to as			
	brownfield property;		
	 allows the state to impose, in accordance with federal provisions, a lien on property 		
	that the state has expended funds to clean up; and		
	 does not prohibit the Department of Environmental Quality from requiring any 		
	responsible person to conduct response actions on contaminated property.		
	Monies Appropriated in this Bill:		
	None		
	Other Special Clauses:		
	None		
	Utah Code Sections Affected:		
	ENACTS:		



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19-8-119, Utah Code Annotate	ed 1953
Be it enacted by the Legislature of the	state of Utah:
Section 1. Section 19-8-119 is	enacted to read:
<u>19-8-119.</u> Brownfield sites -	Limitations on liability.
(1) As used in this section:	
(a) "Bona fide prospective pur	chaser" has the meaning given in 42 U.S.C. § 9601(40),
Comprehensive Environmental Respo	nse, Compensation, and Liability Act of 1980,
substituting "executive director" for "I	President" and "title" for "chapter."
(b) "Contiguous landowner" n	neans a person who qualifies for the exemption from
liability set forth in 42 U.S.C. § 9607	(q)(1), Comprehensive Environmental Response,
Compensation, and Liability Act of 19	080, substituting "executive director" for "President" and
"title" for "chapter."	
(c) "Innocent purchaser" mear	as a person who qualifies for the exemption from liability
set forth in 42 U.S.C. § 9607(b)(3), C	omprehensive Environmental Response, Compensation,
and Liability Act of 1980.	
(2) Notwithstanding any other	provision of law and regardless of whether a person is a
participant in a program under this cha	apter, a person who is a bona fide prospective purchaser,
a contiguous landowner, or an innocer	nt purchaser is not liable for any response action that may
be required with respect to any real pro-	operty pursuant to:
(a) Title 19, Chapter 5, Water	Quality Act, except as provided in Subsection (7);
(b) Title 19, Chapter 6, Part 1.	Solid and Hazardous Waste Act, except as provided in
Subsection (7); or	
(c) Title 19, Chapter 6, Part 3,	Hazardous Substances Mitigation Act.
(3) This section does not limit	any defense that may be available to a contiguous
landowner under any other provision of	of law, and does not impose liability on a contiguous
landowner that is not otherwise impos	ed by 42 U.S.C. § 9607(a), Comprehensive
Environmental Response, Compensation	on, and Liability Act of 1980.
(4) The executive director ma	y issue a written assurance that no enforcement action
under this chapter or any other relevan	at chapter will be initiated against a contiguous
landowner, and an assurance that the s	state will not bring a cost recovery action or contribution

59 claim against a contiguous landowner under 42 U.S.C. § 9613(f), Comprehensive 60 Environmental Response, Compensation, and Liability Act of 1980. (5) Subject to Subsection (2), this section does not limit the authority of the 61 62 Department of Environmental Quality to require any person responsible for the contamination 63 to perform a response action. 64 (6) If the state incurs unrecovered response costs concerning real property for which a bona fide prospective purchaser of the real property is not liable under this section, the 65 66 executive director may place a lien on the real property in accordance with 42 U.S.C. §§ 67 9607(r)(2), (3), and (4), Comprehensive Environmental Response, Compensation, and Liability Act of 1980, substituting "executive director" for "Administrator" and "state" for "United 68

(7) This section does not diminish or alter the authority of the state or the responsibilities of persons under any program or authority delegated to the state by the United States Environmental Protection Agency.

(8) The provisions of this section apply only to real property that is acquired on or after May 3, 2004.

Legislative Review Note as of 1-28-04 9:03 AM

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States."

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

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Brownfield Properties - Amendments

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State Impact

Provisions of this bill can be handled within existing budgets.

Individual and Business Impact

This bill may provide some savings to certain catagorical purchasers protected by provisions of the bill.

Office of the Legislative Fiscal Analyst